

DUANE MORRIS LLP
Gregory P. Gulia
Vanessa C. Hew
R. Terry Parker
1540 Broadway
New York, New York 10036-4086
(212) 692-1000

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X	
ANTHROPOLOGIE, INC. and U.O.D.,	:
Plaintiffs,	:
-against-	:
KVM INTERNATIONAL FASHIONS, LTD.	:
d/b/a CHAUDRY and	:
KRISHAN K. CHAUDRY	:
Defendants.	:
-----X	

Civil Action No. 04-CV-6900

ECF CASE

**REPLY DECLARATION OF VANESSA C. HEW IN SUPPORT OF MOTION TO
ENFORCE CONSENT JUDGMENT**

I, Vanessa C. Hew, hereby declare:

1. I am a partner at the law firm of Duane Morris LLP.
2. I have personal knowledge of the facts stated herein and, if called upon, could competently testify thereto.
3. This reply declaration is submitted in support of Plaintiffs' Motion to Enforce Consent Judgment.

4. I was counsel for Anthropologie, Inc. and U.O.D., Inc. ("Plaintiffs") when they initiated the instant litigation in 2004 against defendants KVM International Fashions, Ltd. d/b/a Chaudry and Krishan Chaudry ("Defendants").

5. In or about August of 2004, employees of Plaintiffs visited the KVM Fashion International Limited ("KVM") exhibition booth at the Intermezzo Collections Fashion Trade Show. Employees of Plaintiffs discovered KVM selling and distributing numerous skirts that were identical to original copyrighted skirts that were created by Plaintiffs. The employees of Plaintiffs informed defendant Krishan Chaudry of the infringement. My office later sent Mr. Chaudry a letter notifying him of the infringement and demanded that the infringement cease. Attached hereto as Exhibit 1 is a copy of the cease and desist letter dated August 4, 2004.

6. Mr. Chaudry responded by email to the cease and desist letter dated August 4, 2004 in which he represented that the infringing skirts were only samples and that he had not ordered any stock. Attached as Exhibit 2 is a copy of Mr. Chaudry's email dated August 6, 2004.

7. However, subsequently, when testifying under oath, Mr. Chaudry later admitted that he had ordered 1,140 units of one skirt design at issue in this litigation and 120 units each of two other skirt designs also at issue in this litigation. Attached hereto as Exhibit 3 is a copy of the sworn testimony of Krishan K. Chaudry.

8. [REDACTED]

9. Attached hereto as Exhibit 5 are copies of Certificates of Registration from the U.S. Copyright Office which were issued for Anthropologie bag designs, specifically, VA 1-777-977 for the Knickknacks-and-Notions Tote design, VA 1-777-656 for the Shaded Arbor Tote design, VA 1-770-708 for the Tulip Path Duffel, and VA 1-777-657 for the Borealis Bag design.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: October 21, 2011
New York, New York



Vanessa C. Hew

Exhibit 1

Hew, Vanessa C.

From: Hew, Vanessa
Sent: Wednesday, August 04, 2004 8:10 PM
To: 'kvmsales@aol.com'
Cc: Gulia, Gregory; Hew, Vanessa
Subject: Objection to Sale of Infringing Merchandise by KVM International Fashion Ltd.

Dear Mr. Chaudry:

Please review the attached letter regarding your company's infringement of our client's intellectual property rights. If you have any questions, please do not hesitate to contact me.

Thank you,

Gregory P. Gulia
Duane Morris LLP
380 Lexington Avenue
New York, NY 10168
(212) 692-1027 (direct)
(212) 692-1020 (fax)



Chaudry_Cease_...
Desist letter...

DUANE MORRIS

FIRM and AFFILIATE OFFICES

GREGORY P. GULIA
DIRECT DIAL: 212.692.1027
E-MAIL: gpgulia@duanemorris.com

www.duanemorris.com

August 4, 2004

**BY FAX (646) 223-1108
E-MAIL, AND
CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

KVM International Fashion Ltd.
d/b/a Chaudry
Attn: Ravi Chaudry
214 W. 39th Street, Suite #508
New York, N.Y. 10018

NEW YORK
LONDON
CHICAGO
HOUSTON
PHILADELPHIA
SAN FRANCISCO
BOSTON
WASHINGTON, DC
ATLANTA
MIAMI
NEWARK
ALLENTOWN
WILMINGTON
CHERRY HILL
HARRISBURG
BANGOR
PRINCETON
PALM BEACH
WESTCHESTER

Re: Objection to sale of Infringing Dresses by KVM International Fashion Ltd.

Dear Mr. Chaudry:

We represent U.O.D., Inc. and its licensee, Anthropologie Inc. (hereinafter referred to collectively as "U.O.D.").

As you are aware, several representatives of our client visited your company KVM Fashion International Limited's ("KVM") exhibition booth today at the Intermezzo Collections Fashion Trade Show. Three of our client's representatives-- Jeff Teator, Katherine Danneberg and Kelly Gilmore--noticed several clothing items displayed by your company that infringe our client's rights. Mr. Teator, Ms. Danneberg and Ms. Gilmore advised you that these items (the "Infringing Merchandise") are copies of our client's designs. Mr. Teator advised you that your company must immediately cease all display, sales, distribution, advertising and promotion of the Infringing Merchandise.

Your company's actions have been taken without permission of U.O.D. and with the intent to profit therefrom.

The images on our client's clothing are original works of our client, which are protected by copyright laws. Your company's copying of these clothing patterns and designs constitutes copyright infringement in clear violation of our client's exclusive rights under the United States Copyright Act , 17 U.S.C. § 101, et seq. The unauthorized duplication of the patterns and

Mr. Ravi Chaudry
KVM International Fashion Ltd.
August 4, 2004
Page 2

designs of our client's clothing and sale of the Infringing Merchandise violates our client's exclusive rights under the copyright laws. See, e.g., 17 U.S.C. § 106.

Your company's sale of the Infringing Merchandise also constitutes unfair competition and is likely to cause confusion as to the source and sponsorship of its goods in violation of various laws including, Section 43 of the Lanham Act, 15 U.S.C. § 1125, and our client's rights under the common law.

The remedies for such violations include not only immediate and permanent injunctive relief against continuing infringement, but also damages for recovery of your company's profits and the damages suffered by our client, which may be trebled. Relief may also include recovery of attorney's fees and costs incurred in connection with litigating the matter. See 17 U.S.C. § 504 and 15 U.S.C. § 1117. Statutory damages of up to \$150,000 per infringement are also available. See 17 U.S.C. 504 (c)(2).

PLEASE BE ADVISED, that on behalf of our client we demand that your company immediately cease and desist from all sales, exhibition and/or distribution of the Infringing Merchandise and any other item which violates the rights of our client.

Moreover, we demand that your company supply us with written confirmation by August 6, 2004 that your company:

- (1) has ceased all sales of the Infringing Merchandise and any other item or product which violates the rights of our client ("the Infringing Products");
- (2) has provided us with an accurate list quantifying the dates of sales, dollar value, and volume of the Infringing Products that have been sold by your company and the catalogues, websites, wholesale and store locations at or through which your company has sold, distributed or exhibited the Infringing Products;
- (3) has provided us with an accurate list of all third party stores/distributors to which your company has sold, distributed or delivered any of the Infringing Products;
- (4) has ceased all advertising and promotion for any and all of the Infringing Products; and
- (5) has provided us with all information regarding where your company obtained the Infringing Products and how they were created and imported including but not limited to: where the Infringing Products were manufactured; who manufactured the Infringing Products; who was involved in the "design" process; how the designs were created; who supplied the Infringing Products to your company; who imported the Infringing Products; and the port or ports through which the Infringing Products were imported.

Mr. Ravi Chaudry
KVM International Fashion Ltd.
August 4, 2004
Page 3

Please provide us with the undertaking, assurances and information requested above by **August 6, 2004**. If you fail to do so, our client is prepared to take all appropriate actions to ensure that its intellectual property rights remain protected.

This letter is written without prejudice to any of U.O.D.'s rights or remedies, all of which are expressly reserved.

Very truly yours,

Gregory P. Gulia

GPG/vch

cc: Ravi Chaudry
KVM International Fashion Ltd.
922 W. Venice Blvd.
Los Angeles, CA 90015
(by fax (213) 748-5360)

Krishan K. Chaudry, President
KVM International Fashion Ltd.

Beth Green
KVM International Fashion Ltd.

Mr. Ravi Chaudry
KVM International Fashion Ltd.
August 4, 2004
Page 4

bcc: Glen A. Bodzy, Esq.

NY\258854.1

Exhibit 2

Gulia, Gregory P.

From: SChaudry@aol.com
Sent: Friday, August 06, 2004 1:53 PM
To: Gulia, Gregory
Cc: Kvmexec@aol.com; Kvmoffice2@aol.com
Subject: U0802-00004

Dear Mr. Gulia!

I received the letter regarding the above matter & left a message for you in your office to inform you that I have taken care of the matter.

I am also investigating at my end as there was no intention to either copy or market Anthropologie product by our Co. Even though we have seized & discontinued the style in question the sample of which is with Mr. Jeff Teator.

I am trying to find out which styles belong to Anthropologie as we keep getting samples from different vendors from different countries because we buy our product from different exporters & we have no way of knowing which style belong to which Co. unless it is noticed as it was by Anthropologie & we have stopped showing the styles & fortunately did not order any stock.

I would request you to please help me get me the photocopies of the patent which is registered by Anthropologie.

In the meantime I have warned this supplier not to furnish me with any samples which are not his own developments to avoid any complications & losses by both of us.

I assure you that we will be very careful & vigilant about this matter in future effective from now.

With Best regards,
Krishan K.Chaudry

Exhibit 3

September 2, 2004

Gregory P. Gulia
Duane Morris LLP
380 Lexington Avenue,
New York, NY 10168

Dear Mr. Gulia:

I, Krishan Chaudry, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, hereby declare under penalty of perjury that the following statements are true and correct.

I have sold, distributed, received, purchased, or ordered only the following quantities of garments referred to in the complaint in Anthropologie, Inc. and U.O.D., Inc v. KVM International Fashions, Ltd. d/b/a Chaudry and Krishan K. Chaudry (Civil Action No. 04CV6900 (KMW)), filed on August 24, 2004 in the United States District Court of the Southern District of New York (hereinafter referred to as the "Complaint") and have purchased and sold such garments for only the prices as stated herein.

1. With respect to the garment depicted in Exhibit 1 to the Complaint, I received only one sample of this garment from RCR New Delhi India.

I have not purchased, ordered, sold or distributed this garment.

2. With respect to the garment depicted in Exhibit 2 to the Complaint, I received only one sample of this garment from RCR New Delhi India.

I have not purchased, ordered, sold or distributed this garment.

3. With respect to the garment depicted in Exhibit 3 to the Complaint, I received only one sample of this garment from RCR New Delhi India. I have not purchased, ordered, sold or distributed this garment.

4. With respect to the garment depicted in Exhibit 4 to the Complaint, I received a sample of this garment and ordered 120 pieces of this garment from RCR New Delhi India. for a price of approximately \$16.12, plus service charge, per piece. Since then, I have sold 19 pieces of this garment at a price of \$38.00. The remaining 101 pieces of inventory are in my possession.

5. With respect to the garment depicted in Exhibit 4 to the Complaint, I received a sample which was similar, but not identical, to the garment

depicted in Exhibit 4. I have received two styles of this garment in the colors black and white. For your reference, I have enclosed pictures of the garments in both the black and white styles that were marketed by my company.

For the model in black, I purchased and received 1140 pieces of this garment from RCR New Delhi India for a price of \$19.34, plus service charge, per piece. I have sold 798 pieces of this garment at a price of \$27.00 per piece and

72 pieces of this garment at a price of \$34.00 to \$42.00 per piece.

The
remaining
270 pieces of inventory are in my possession.

For the model in white, I purchased and received 120 pieces of this garment from RCR New Delhi India for a price of \$19.34, plus service charge, per piece.

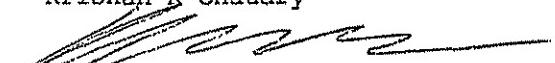
I have sold 42 pieces of this garment at a price of \$34.00 to \$38.00 per piece.

The remaining 78 pieces of inventory are in my possession.

I have permanently ceased all sale, distribution, display, marketing, advertising, and promotion of all the garments identified in the Complaint. To the best of my knowledge, I am not currently nor have in the past sold, distributed, displayed, marketed, advertised, and promoted any other garments that infringe any intellectual property rights of Anthropologie and will refrain from such activity in the future.

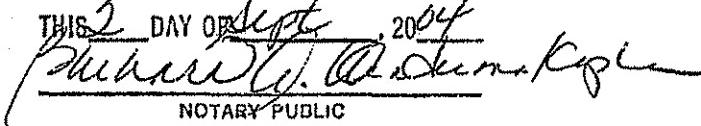
Sincerely,

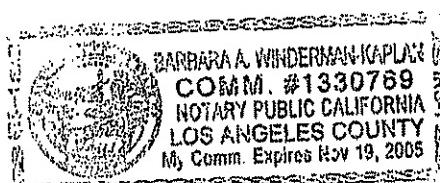
Krishan K Chaudry


KVM International Fashions Ltd.,
922 W Venice Blvd,
Los Angeles Ca. 90015.

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 2 DAY OF Sept 2004


NOTARY PUBLIC



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SAC

} ss.

On 9/3/04

Date

before me,

Peter Paul Reed Taylor
Name and Title of Officer (e.g., Jane Doe, Notary Public)personally appeared Krishan L Ravi

Name(s) of Signer(s)

- personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Peter Paul Reed Taylor
Signature of Notary Public**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

 Individual Corporate Officer — Title(s): _____ Partner — Limited General Attorney in Fact Trustee Guardian or Conservator Other: _____

RIGHT THUMBPRINT

OF SIGNER

Top of thumb here

Signer Is Representing: _____

Exhibit 4

Redacted Pursuant to Protective Order

Exhibit 5

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

A handwritten signature in black ink that reads "Maria D. Pallante".

Register of Copyrights, United States of America

Registration Number

VA 1-777-977

Effective date of
registration:

February 25, 2011

Title

Title of Work: KNICKKNACKS-AND-NOTIONS TOTE

Completion/Publication

Year of Completion: 2008

Date of 1st Publication: June 1, 2009

Nation of 1st Publication: United States

Author

Author: Urban Outfitters, Inc.

Author Created: 2-D artwork

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Urban Outfitters, Inc.

5000 South Broad St, Philadelphia, PA, 19112-1495, United States

Certification

Name: Vanessa C. Hew

Date: February 25, 2011

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

A handwritten signature in black ink that reads "Maria L. Pallante".

Register of Copyrights, United States of America

Registration Number

VA 1-777-656

Effective date of
registration:

February 25, 2011

Title

Title of Work: SHADED ARBOR TOTE

Completion/Publication

Year of Completion: 2008

Date of 1st Publication: February 1, 2009

Nation of 1st Publication: United States

Author

Author: Urban Outfitters, Inc.

Author Created: 2-D artwork

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Urban Outfitters, Inc.

5000 South Broad St, Philadelphia, PA, 19112-1495, United States

Certification

Name: Vanessa C. Hew

Date: February 25, 2011

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

A handwritten signature in black ink that reads "Maria A. Pallante".

Acting Register of Copyrights, United States of America

Registration Number

VA 1-770-708

Effective date of
registration:

February 25, 2011

Title

Title of Work: TULIP PATH DUFFEL

Completion/Publication

Year of Completion: 2008

Date of 1st Publication: June 1, 2008

Nation of 1st Publication: United States

Author

Author: Urban Outfitters, Inc

Author Created: 2-D artwork, sculpture/3-D artwork

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Urban Outfitters, Inc.

5000 South Broad St, Philadelphia, PA, 19112-1495, United States

Rights and Permissions

Organization Name: Duane Morris LLP

Name: Vanessa C. Hew

Email: vchew@duanemorris.com

Telephone: 212-692-1062

Address: 1540 Broadway

New York City, NY 10036 United States

Certification

Name: Vanessa C. Hew

Date: February 25, 2011

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Registration Number

VA 1-777-657

Effective date of registration:

February 25, 2011

Maria A. Pallante
Register of Copyrights, United States of America

Title

Title of Work: BOREALIS BAG

Completion/Publication

Year of Completion: 2008

Date of 1st Publication: November 1, 2009

Nation of 1st Publication: United States

Author

* Author: Urban Outfitters, Inc

Author Created: 2-D artwork

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Urban Outfitters, Inc

5000 South Broad St, Philadelphia, PA, 19112-1495, United States

Certification

Name: Vanessa C. Hew

Date: February 25, 2011